



Forest Heights Police Department Policy and Procedures Manual

Subject:	Speed Monitoring Systems for the Town of Forest Heights			
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A. Purpose

To establish Forest Heights Police Department (FHPD) policy for the use and deployment of speed monitoring systems, and the proper administration of the citation review

B. Policy, Purpose, Goals

1. It is the policy of the FHPD in cooperation with its vendor to achieve the successful administration of Operation Get Home Safe by the proper use and deployment of speed monitoring systems (SMS) within the corporate limits of the Town. It is imperative that the FHPD ensure public safety and confidence in the program through the diligent, scrupulous and meticulous administration of the citation system and through proper operational control of speed cameras.
2. This policy describes the administrative and support processes that enable the FHPD to execute its responsibilities regarding the speed monitoring systems, including maintaining and operating the speed monitoring units, screening and approval of SMS citations, administration of court procedures and prosecution of contested citations.
3. The primary objective of the speed camera program is to deter speeding and thereby improve public safety. In addition, the Town implements the speed camera program to provide safer and more consistent speed enforcement, and to relieve the burden on limited police resources. The primary controversy over speed cameras is related to whether the goal of speed camera programs is to generate revenue or to increase safety.
4. An ethically and professionally administered program will help dispel negative public perception. Furthermore, opponents argue that since speed camera programs photograph vehicles exceeding a preset speed threshold and mail a citation to the owner or driver, some opponents claim this technology infringes on one's right to due process. The Department, therefore, can ill afford to allow systematic problems, inconsistencies, lack of attention to detail, mistakes or oversights to erode the public's confidence in the systems. The Department's personnel must not only diligently execute this and other police directives, but must be vigilant in identifying and foreseeing problems, malfunctions, weaknesses and new policies to improve the speed camera program.

C. Definitions

Speed Monitoring Systems (SMS) means a device with one or more sensors producing recorded images of motor vehicles.

Speed Monitoring System Operator means a certified operator who operates a speed monitoring system.

Recorded Images means Images recorded by a speed monitoring system on a photograph, a microphotograph, an electronic image, videotape, or any other medium which shows the rear of the motor vehicle. The record includes at least two time-stamped images of the motor vehicle that includes the same stationary object near the motor vehicle, and on at least one image or portion of tape, a clear and legible identification of the entire registration number of the vehicle must be discernible.

Vehicle means any automobile, trailer, or other vehicle of a type required to be registered with the Maryland Motor Vehicle Administration.

Owner means the registered owner of a motor vehicle or the leaseholder of a motor vehicle under a lease of six months or more. Owner does not include a motor vehicle rental or leasing company, or holder of a special registration plate issued under Part III of Subtitle 13, Subtitle 9 of the Transportation Article.

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D. State and Local Law

1. The primary statute governing the issuance and processing of speed camera citations is found in MD Ann. Code Transportation §21-809 authorizing the statewide use of speed cameras in school zones and highway work zones. This law was effective October 1, 2009.
2. The law requires that before implementing a new speed camera program, a jurisdiction must authorize the program through local law (ordinance or resolution) after reasonable notice and a public hearing.
3. The law requires that jurisdictions publish the location of fixed speed cameras on their websites and in a newspaper, and place signs in school zones indicating that speed cameras are in use.
4. The law authorizes a maximum fine of \$40 for a speed camera citation. The citation is a civil penalty issued to the vehicle owner, and *is* treated as a non-moving violation (similar to a speeding citation). The civil penalty *is* not recorded on the owner's driving record by the State Motor Vehicle Administration (MVA), no license points are assigned, and insurance providers are not notified. However, if the penalty is not contested or paid, the law authorizes the MVA to refuse to register, refuse to transfer the registration, or suspend the registration of the owner's vehicle.
5. The law includes requirements for speed monitoring system operators. Operators must:
 - a. Complete training on the operation of a speed camera;
 - b. Fill out and sign a daily set-up log; and
 - c. Perform a manufacturer-specified speed camera self-test before taking any photographs. Operators must also ensure that each speed camera undergoes an annual calibration check, as verified by an independent calibration laboratory.
6. The local law governing speed cameras is found in the Town of Forest Heights Ordinance Code §§ 15.6 and 15.9. The Resolutions establishing the school zones are Res. 44-09 and Res. 48-09.

E. Legal Requirements

1. Citations
 - a. The issuance of a speed camera citation constitutes a civil as opposed to a criminal violation and can be prepaid to avoid an appearance in court per MD Ann. Code Transportation, §21-809(c)(3). The process begins by the police agency mailing a citation to an owner or the driver who is rebuttably considered liable for the civil penalty per MD Ann. Code, Transportation, §21-809(d). The citation must be mailed within two weeks (or 30 days for out-of-state registered vehicles) per MD Ann. Code, Transportation §21-809(d)(5).
 - b. A law enforcement officer, employed by the Department, must sign the citation stating that the vehicle is in violation of the law based upon his/her inspection. The citation must include:
 - (1) Name and address of the registered vehicle owner;
 - (2) Registration number of the motor vehicle involved;
 - (3) Location of the violation;
 - (4) Date and time of the violation;
 - (5) Copy of the recorded image of the violation (including two time-stamped images of the vehicle passing a stationary object and one image of the license plate);
 - (6) Type of violation charged and the civil penalty imposed;
 - (7) Date the civil penalty must be paid; and
 - (8) Statements regarding the appeal process.
2. Right to Hearing
 - a. A person who receives a citation may pay the citation directly to the FHPD (i.e., via its vendor) or choose to stand trial in District Court. If an alleged violator chooses to stand trial in District Court, and wishes to have the operator of the speed camera present, he/she must notify the

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Court and the Town at least 20 days before the trial. By law, the recorded image or three photographs from a speed monitoring system is admissible in court, along with the speed monitoring system operator's training certificate and proof of the automated enforcement system's calibration.

- b. Simply mailing in a late or untimely request for a hearing does not automatically entitle a person to a hearing nor does it obligate the Town to forward the citation on to the District Court so that the owner or driver may in essence have two consolidated hearings afforded to him one for the procedural question relating to jurisdiction regarding the notice deadline and the other regarding the actual merits of the case.
- c. A person who requests a hearing less than five days before the due date as printed on the citation forfeits his or her right to a hearing the same as if the person paid the citation and later changed his or her mind and decided to request a hearing. The operative date in determining timeliness is not the postmarked date, but it is the date the coupon requesting a hearing is actually received by the police agency or its agent, the vendor.
- d. Use of the word "notifying" in MD Ann. Code, Courts §7-302 means actual receipt of notice by the police agency and not simply placing the notice in the mail. See *Lee v. State*, 632 A.2d 1183, 332 Md. 654 (1993). This also means that those notices that are postmarked slightly more than five days before the due date but are nonetheless received from the post office less than five days before the due date are technically late and would constitute an admission of liability.

3. Defenses.

- a. In defense, the alleged violator may file an affidavit with the District Court certifying that:
 - (1) the vehicle or plates were stolen before the violation occurred; or
 - (2) he was not the driver of the vehicle at the time of the violation. If the vehicle or plates were stolen, the vehicle owner must provide a police report. If the person named in the citation was not the driver, the owner must provide evidence that he was not operating the vehicle at the time.
- b. Under the 2006 law, the owner also had to provide the name and address of the person who was driving the vehicle. The 2009 law does not require the owner to identify the individual who was driving the vehicle at the time of violation. If the District Court finds the person named in the citation was not the driver or receives evidence identifying the driver at the time of the violation, the Clerk of the District Court must provide the local police department with any supporting evidence. Based upon evidence received, the local police department may then issue a citation to the driver of the vehicle no later than two weeks after notification from the Court.
- c. If a person who received a citation desires to have the SMS Operator to be present and testify at trial, the person shall notify the FHPD in writing no later than 20 days before the scheduled court hearing. Upon request by the FHPD, the Town's vendor will also make available a qualified representative to attend the hearings provided the vendor is given 10 days prior written notice of the hearings.

F. Citation Process

1. Detection of the Violation and Operator's Responsibilities

- a. Once operational, the speed cameras track vehicle counts of every motor vehicle that passes, but only photograph vehicles traveling 12 or more miles per hour over the speed limit. Vehicle traveling below this speed are not photographed.
- b. Before speed cameras detect violations, an operator sets up the system by calibrating and testing the camera. For mobile speed cameras, the operator performs the set-up process before beginning to detect violations at each enforcement site. As part of his regular duties, the SMS Operator shall:
 - (1) Before serving as a Speed Monitoring System Operator, receive training by the manufacture in the procedures for setting up and operating the speed monitoring systems.

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- (2) All SMS Operators shall receive a certificate of completion upon finishing system certification, which is kept on file with FHPD. The Department uses these certificates as evidence of the operators training in District Court when alleged violators contest speed camera citations.
 - (3) Receive, review, log and archive the manufacture-specified daily self test reports each day the cameras are operated.
 - (4) Review all newly recorded SMS events for violations and issue citations for violations at least once every three days. A backlog of SMS events for violations pending review shall not exceed two (2) weekdays without the Mayor's approval.
 - (5) Conduct a physical check of each SMS daily, and ensure trailer control systems are operating nominally.
 - (6) Exchange the prior day's external hard drive with a new one and return the hard drive to the vendor for data processing.
- c. In accordance with State law, the speed cameras photograph recorded images of the rear of a vehicle. The cameras take at least two time-stamped photographs of the vehicle passing a stationary object. For mobile speed cameras, a road cone serves as the stationary object, another object, or progression lines on the roadway serve this purpose. The speed cameras take photographs of the rear of the moving vehicle and the vehicle's license plate. The vehicle's driver is not photographed.

2. Violation Review and Processing

- a. Once violations are detected and photographed, the vendor performs an initial event review of the images. If the images are clear and meet the legal criteria for a violation, the vendor (i.e., Optottraffic) sends the vehicle's registration information to the Maryland Motor Vehicle Administration (MVA) to determine the vehicle's registered owner.
- b. On average, it takes about two days for the MVA to process a State of Maryland license plate, and two to three weeks to process an out-of-state license plate. After conducting the initial review and receiving registration data from the MVA, the vendor prepares the violation information for FHPD approval.
- c. The most common reasons for rejecting a violation may be:
 - (1) an unclear/obstructed license plate;
 - (2) multiple vehicles in the photograph;
 - (3) no information on the vehicle at the MVA; and
 - (4) an expired violation, which means the FHPD or its vendor cannot mail the citation by the statutory deadline. After FHPD approves the violation pursuant to the event review stated below, the vendor will print the citation for mailing to the individual and address specified on the issued citation.
- d. Event review by the SMS Operator is:
 - (1) SMS operators shall access the vendor's (i.e., Optottraffic's VioView) speed violation review website as follows:
 - (a) Go to the vendor's website (i.e., <http://speed.optottraffic.com>);
 - (b) Navigate to the Internet based program's main page and click "Police Review;" and
 - (c) Login with username and password.
 - (2) SMS operators shall review the event images for quality and verify that the required information is present and accurate and that the violation is properly recorded by the images.
 - (a) Verify that the vehicle speed is at least 12 miles over the posted speed limit, and that the Event Data Speed matches the speed associated with the images. If there is any discrepancy in the speed the event is to be rejected.

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- (b) Ensure that the vehicle registration plates, make, and model match the information listed in the Vehicle Data block. If they do not match, the event is to be rejected.
- (c) If the event meets all of the above requirements the SMS operator may accept the event as a violation. The SMS operator is in no way required to accept an event as a violation. The decision is at the discretion of the SMS operator to accept or reject an event. The FHPD shall have the sole and exclusive responsibility for the final review of recorded events not filtered by the vendor and the issuance of citations thereafter.
- (d) FHPD personnel shall safeguard all system login-identifications and supporting documentation, and ensure that unauthorized individuals do not gain access to Vioview, FastTract or any other documentation, manual, software, database or application that supports the speed camera information technology support systems. All personnel shall immediately notify the vendor through the chain-of-command of any compromise or suspected compromise of any login-identification.
- e. Upon final approval, the vendor mails the citation to the vehicle's owner (or lessee of at least six months) within the time frame required by State law (two (2) weeks after the alleged violation or 30 days if out-of-state), or the citation is thrown out. The "mailbox rule" specifically applies here meaning the requirement is met if the citation is placed in the mail before the deadline. Other departments report that the average time it takes to process a violation and mail the citation to the vehicle's owner is 10-13 days and this time frame holds true for license plated registered in-state and out of state.
- f. Once the citation is placed in the mail or delivered to the alleged violator, the FHPD or its vendor may not self-adjudicate or otherwise dispose of the matter without Court approval or authorization from the State's Attorney.
- g. The citation form contains language on both sides of the 8 x 11 inches paper and includes a detachable coupon used by the alleged violator to:
 - (1) record corrections to the person's name and address on the back of the form;
 - (2) pay the citation by sending a check, money order, or pay with credit card on-line according to the instructions on the back of the coupon; or
 - (3) request a court hearing by not sending a payment, but instead checking the box on the back of the coupon, including providing a signature and returning the form at least five days prior to the Due Date printed on the coupon. (Section 15.9 of the Town Ordinance Code states that the due date is 20 days after the alleged violation unless otherwise stated on the citation, which is approved by the Court.) The form advises the alleged violator that he or she will be notified by mail of the court date, time, and location.
- h. The back of the coupon contains the return address, citation number and other information including a box where the person receiving the citation may select to state that "I am contesting the citation and elect to have a court hearing" and sign his or her name and provide a telephone number, if desired.
- 3. Options and Repercussions for Persons Issued a Citation. As stated on each citation, a person issued a citation may choose whether to waive his/her right to a hearing and pay the \$40 citation, which is an admission of guilt, contest the citation in Maryland District Court or simply ignore the citation but possibly face serious repercussions.
 - a. Payment of Citation. If an alleged violator chooses to pay the citation's \$40 civil penalty, he/she admits guilt and waives the right to a hearing. The speed camera program enables people to pay by mail or online using a credit card. The FHPD or Town staff shall not accept payments from violators and shall forward any mailed payments to the address printed on the citation. The State law treats the payment of a speed camera citation like a parking violation. The payment of a speed camera citation will not result in the State MVA recording points on the owner's driving record, nor will it be reported to insurance providers.
 - b. Nonpayment of Citation. If an owner does not either pay the citation or indicate that he wishes to contest the citation more than five days before the Due Date, the vendor applies a \$25 late

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fee to the citation and mails a Delinquent Notice eight days after the Due Date. (A returned check fee of \$35 may also be added if applicable.) The notice states that if the citation is not paid, the State MV A may flag the registration. If the citation penalty and late fee are not paid within twenty-seven (27) days after the Delinquent Notice, the delinquent citation becomes eligible for flagging; however, this timeframe is not limited by statute or regulation, therefore, eligibility for flagging may occur any reasonable time after notice is provided. The FHPD or its vendor may send the file to MVA for flagging and may receive confirmation approximately 15 days later. The MVA may refuse to renew or may suspend a flagged motor vehicle's registration. To release the MVA flag, a person must pay a \$40 administrative flagging fee to the FHPD and a \$30 fee to the MVA.

c. Contesting the Citation - Continuances

- (1) A vehicle owner receiving a citation may opt to contest it. If an alleged violator chooses to contest a speed camera citation, he/she must do so more than five (5) days before the Due Date printed on the citation. The citation provides a box for the alleged violator to indicate his request to contest the citation.
- (2) If the vehicle or registration plates were stolen at the time of the violation, the owner must provide a police report certifying that the vehicle or license plate was stolen. The citation directs that the defendant send a copy of the police report to the FHPD with the request for a court date. If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the FHPD a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
- (3) If the vehicle owner requests a hearing, the FHPD sends a notice of the location, time, and date of the hearing. The District Court schedules approximately 100 speed camera citation hearings in a single morning session for the Town once each month.
- (4) The SMS Operator and the FHPD shall take the following actions prior to a contested case hearing:
 - (a) Returned SMS citation coupons with requests for hearings shall be received by the SMS clerk. The clerk shall update the payment record system (i.e., FastTrack) with the required court hearing information.
 - (b) The SMS operator issuing the citation wherein the defendant requests a court hearing shall attend on the scheduled date.
 - (c) All trial scheduling and notification will be accomplished by the FHPD a minimum of 14 days prior to the court date. The FHPD will submit to the District Court a packet of documentation containing the following:
 - 1) a copy of each citation set for trial;
 - 2) disposition docket for each citation in the packet;
 - 3) a copy of the court docket listing all citations scheduled for the specific court date; and
 - 4) a copy of a court docket with space for dispositions and payment amount.
 - (d) For the first requests for postponements, the clerk shall update the system of records and perform the following:
 - 1) Reset cases for the next available speed monitoring case docket;
 - 2) Notify the defendant of the new court date; and
 - 3) Any subsequent requests for continuances shall be referred to the District Court.
- (5) At the hearing, the FHPD provides the evidence of the violation and the operator's training certificate plus proof that the operator calibrated and set up the speed camera properly. If the person who received the citation was not driving the vehicle at the time of the violation, he must provide evidence that he was not operating the vehicle at the time. After the Town

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and vehicle owner present evidence to the District Court judge, the judge will render a decision. The District Court judge may:

- (a) Find the person not guilty of the violation;
 - (b) Transfer the liability of the citation from the owner of the vehicle to another person;
 - (c) Find the person guilty of the violation; or
 - (d) Find the person guilty, but lower the fine associated with the citation.
- d. Transfer of liability. If the District Court transfers the liability of the citation from the owner of the vehicle to an identified driver, the clerk of the court will forward any supporting evidence and identification to the FHPD. Based upon the information received, FHPD may then issue a citation to the person identified within two weeks of the Court notification. All transfers of liability from the Owner to another driver shall be processed by the FHPD SMS clerk. There is no time limit for submission to the FHPD; however, once liability is approved for transfer the FHPD must forward the new citation within two weeks

G. Post Hearing Disposition

1. The FHPD is responsible for notifying the defendants that departing the courthouse without paying the assessed fine and costs will result in a "failure to pay" letters being issued against them.
2. These letters direct the defendants to pay the amount assessed to the FHPD. If the payment is not made to the FHPD, the motor vehicle's registration may be suspended or refused for renewal.
3. The SMS clerk will update the system of record of the Court's disposition.

H. Public Information Act Requests

1. The law governing the release of public information is known as the Public Information Act, and is located in the MD Ann. Code, State Government §10-611 *et seq* (the "Act"). The Act does not require the FHPD to create records in order to be responsive to a specific request. Furthermore, the Act provides an exception from disclosure of any records that may be in the Department's possession that would be subject to the attorney-client privilege and are therefore protected from disclosure by MD Ann. Code State Government §10-615(1) as a privileged or confidential record. Recorded images produced by a traffic control signal or speed monitoring system are also protected from general disclosure pursuant to MD Ann. Code State Government §10-616(o), but must be released to the person issued the citation. Furthermore, certain information such as the operator training certificate, the daily set up log, the annual monitoring system calibration certificate and the images of the specific vehicle cited will be admitted into evidence in any court proceedings for a violation of MD Ann. Code Transportation §21-809; therefore, these items will be made available to a person requesting a hearing.
2. The Town's record custodians may also deny access to certain records generally because they are part of an investigatory file of the FHPD concerning persons that are pending a court hearing or other possible litigation. These records are typically compiled as part of a law enforcement investigation, and are therefore covered by SG MD Ann. Code, §10-618(f). Furthermore, a request from a person who is not a "person in interest" as to the requested records can be denied because disclosure of the records would be contrary to the public interest since inspection would disclose the identity of a person requesting trial and may also disclose information about a specific contested case.
3. All software, documentation, training materials, and other information related to vendor provided services as well as the vendor's SMS consist of confidential and proprietary information and trade secrets, the disclosure of which to third parties may damage the vendor and the Town. FHPD personnel will hold confidential information in the strictest of confidence and will not release such information to any party other than an authorized employee or authorized agent of the Town without the consent and approval of the official records custodian after review by the Town Attorney.
4. Public information requests are governed by State law and Resolution 89-13.